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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 141103917-4917-01]

RIN 0648-BE60

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Black Sea Bass Fishery; Framework Adjustment 8

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework Adjustment 8 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. This action would allow the black sea bass recreational fishery to begin on May 15 of each year, instead of May 19, to provide additional fishing opportunities earlier in the year.

DATES: Comments must be received by 5 p.m. local time, on [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified NOAA-NMFS-2014-BE60, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0155, click the "Comment Now!" icon, complete the required fields, and enter or attach

your comments.

- Mail and Hand Delivery: John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on Black Sea Bass Framework 8.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the Supplemental Information Report and other supporting documents for this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. These documents are also accessible via the Internet at: <http://www.greateratlantic.fisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281-9218.

SUPPLEMENTARY INFORMATION:

General Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively

under the provisions of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, in consultation with the New England and South Atlantic Fishery Management Councils. The management unit specified in the FMP for black sea bass (Centropristis striata) is U.S. waters of the Atlantic Ocean from 35 E. 13.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, North Carolina) northward to the U.S./Canada border.

The FMP is managed jointly by the Council and Commission, and states manage black sea bass within 3 nautical miles (4.83 km) of their coasts under the Commission's plan. The applicable Federal regulations govern vessels and individual anglers fishing in Federal waters of the exclusive economic zone (EEZ), as well as vessels possessing a Federal black sea bass charter/party vessel permit, regardless of where they fish. The recreational fishery is essentially managed with four parts: The recreational harvest limit; the open season; minimum fish size; and a bag limit. The recreational harvest limit is established based on the specifications formula in the FMP. The open season, minimum fish size, and bag limit are collectively referred to as the “recreational management measures.”

Recreational Management Measures Background

The Black Sea Bass Monitoring Committee, consisting of representatives from the Commission, the Council, state marine fishery agency representatives from Massachusetts to North Carolina, and NMFS, typically meets in November of each year to make recommendations on recreational management measures necessary to constrain landings within the recreational harvest limit established for the upcoming fishing year. The Council’s Demersal Species Committee and the Commission’s Summer Flounder, Scup, and Black Sea Bass Management

Board then consider the Monitoring Committee's recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council reviews the recommendations of the Demersal Species Committee, makes its own recommendations, and forwards them to NMFS for review. The Commission similarly adopts recommendations for the states. NMFS is required to review the Council's recommendations to ensure that they are consistent with the targets specified for each species in the FMP and all applicable laws and Executive Orders before ultimately implementing measures for Federal waters. A proposed rule is typically published in the spring of the next year, with a final rule typically published in late May or early June.

The recreational management measures recommendations are typically based on recreational landings of the current fishing year, through Wave 4 (July/August), with projections to estimate total annual landings. If the estimate of total annual landings is below the recreational harvest limit for the next year, recreational measures may be kept the same or possibly even relaxed. If the estimate of annual landings is above the recreational harvest limit for the next year, measures may need to be more restrictive. In order to maximize fishing opportunities for a given recreational harvest limit, the Monitoring Committee uses a set of tables that illustrate the expected change in landing per unit of change for each of the management measures tools (season, size, and bag limit). Modifications to the minimum size and bag limit typically result in less change per unit than changes to the season. The Monitoring Committee considers the predicted changes in landings per day per wave for each state and coastwide. The highest coastwide percent change per day occurs in Wave 5 (September/October), followed closely by Wave 3 (May/June).

In December 2013, the Council initiated a Framework Adjustment to consider two modifications to the black sea bass management measures for the 2015 fishing year: (1) Opening Wave 1 (January/February) with increased reporting requirements for federally permitted charter/party vessels only; and (2) move the start of the Wave 3 fishery to May 1. Because of issues surrounding data collection, both current and historical, and the impact that the Wave 1 fishery would have on the recreational harvest limit later in the year, the Council voted at its August 2014 meeting not to move forward with that measure at this time. The Council did, however, recommend opening the Wave 3 fishery on May 15, as opposed to the current start date of May 19. This framework adjustment is necessary because the timing of the normal rulemaking schedule, as described above, makes implementing management measure changes that would impact early May difficult, and they would likely not be effective until May 2016.

Proposed Action

This action proposes to revise the start date of the black sea bass recreational fishery by four days to begin on May 15 instead of May 19. The Council had originally considered moving the start date to May 1, but determined that an incremental change of only four days would allow for a wider distribution of opportunity. While some states would prefer that Wave 3 be open for more days than Wave 5, other states would prefer a shorter Wave 3 season compared to Wave 5. However, there are usually other fisheries (summer flounder, striped bass, etc.) open during Wave 5 that are not also open in Wave 3, which may result in more fishing opportunity overall.

In recent years, the black sea bass recreational harvest limit has been achieved or exceeded. Because of this, starting the season on May 15 would require the Council to shorten the Wave 5 season by approximately four days, in addition to other potential management

changes, to ensure that the recreational harvest limit is not exceeded in 2015. The Council will make recommendations on the other management measures, including those to accommodate the earlier season opening, at its December 2014 meeting.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Office of Management and Budget has determined that this proposed rule is not significant for the purposes of Executive Order 12866.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures in conjunction with a supplemental information report. These analyses identified 777 unique fishing entities (i.e., federally permitted charter/party vessels) in the Greater Atlantic Region that could be affected by the proposed change. However, only 346 federally permitted charter/party vessels, all of which qualify as small entities under the Small Business Administration's small business standards, are expected to participate in the black sea bass recreational fishery next year. The proposed measure would shift four days of the black sea bass season from later in the season, when there are more species to target, to earlier in the season when there are fewer species to target. Because of seasonal availability, if charter/party

vessels are not able to target black sea bass earlier in May, they will not be able to advertise and book trips, thereby losing revenue. However, even with reduced black sea bass fishing in Wave 5, they will be able to continue to book trips to target other revenue-generating species during that time, such as summer flounder. As a result, charter/party vessel operators will be able to take more trips over the course of the year and earn more revenue than is currently possible. Therefore, the economic impacts of this action are expected to be positive, if minimal. Although a substantial number of small entities will be affected, the effect will be neither negative nor significant.

Because this rule will not have a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 19, 2014

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. Section 648.146 is revised to read as follows:

§ 648.146 Black sea bass recreational fishing season.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from May 15 through September 18, and October 18 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.142.

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